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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,151	04/09/2001	Alan Young	063170.6800	8242
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BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			EXAMINER NGUYEN, TAN D	
			ART UNIT 3629	PAPER NUMBER
			NOTIFICATION DATE 01/10/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## Office Action Summary

Application No.

09/829,151

Applicant(s)

YOUNG, ALAN

Examiner

Tan Dean D. Nguyen

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7,9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

The amendment of 10/2/07 has been entered. Claims 1-7 (method), 9 (system) 10 (apparatus) are pending and are rejected as followed.

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 9 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter, not a process, machine, manufacture, or composition of matter. The elements of the system such a workflow manager and a contextual visualization are mere modules or program codes.

Applicant's argument is not persuasive. Applicant's citation of the MPEP "computer programs are often recited as part of a claim" is noted but this appears to be in the case where there are some structures or elements in the claim such as a processor and not the claim containing only modules or program codes. Inclusion of a processor in a similar language as shown in claim 10 is recommended to overcome this rejection.

### ***Claim Rejections - 35 USC § 112***

3. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention. Claim 1 recites the limitation "the selected key performance indicator" in lines 4-5. There is insufficient antecedent basis for this limitation in the claim. There is no discussion of "selecting" or "selection" from the previous steps.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1-7, 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over ORACLE or PEOPLESOFT or COGNOS in view of BATTAT et al.

As of 1/23/07, independent method claim 1 is as followed:

1. (Previously presented) A method for reporting a value of a key performance indicator comprising:

(a) receiving information identifying a key performance indicator to monitor;

(b) identifying at least one business event associated with the selected key performance indicator;

c) receiving a business event message indicating an occurrence of the business event, the business event message including business data describing the business event;

(d) in response to receiving the business event message, electronically determining the value of the key performance indicator based on the business data; and  
(d) displaying the determined value of the key performance indicator via a contextual visualization interface.

Note: for convenience, alphabetical letters (a)-(d) are attached to the beginning of each step.

ORACLE is cited to teach a business monitoring and management application and integrated information source including the use of tracking key performance indicators (KPI) and forecasting business opportunity to improve competitive advantage and enhance business operation with multidimensional analysis by empowering the business managers and executives to easily analyze e-business sales information and marketing data via a standard web browser {see page 1}. The software provides global access to real time sales forecasts information, marketing trends and internet click-stream data to enhance a company's customer intelligence {see page 1}. The steps of (a)-(e) are merely steps involved in monitoring and reporting a business performance and these are inherently including in the accessing the information, monitoring and analyzing and marketing of data including the tracking of the KPI via a standard Web

browser as cited in ORACLE above. As for the limitation of the monitoring information includes business event message, this limitation appears to be included in the above teachings since business event message reads over business information or business data. Therefore, ORACLE fairly teaches the claimed invention except for the usage of a contextual visualization interface in the “displaying” step.

PEOPLESOFT is cited to teach a business monitoring and management application and integrated cause-and-effect perspective on key management processes by providing the capabilities necessary to design and monitor critical success factors and calculate KPI to help managers develop and execute organizational strategy {see page 1}. The PeopleSoft Balanced scorecard leverages data and metrics from internal and external data sources and provides a focal point for EPM's four business solutions: Strategic & Financial management, Workforce Analytics and Industry Process management, and Customer Relationship management {see page 1}. It would have been obvious to modify the teachings of BATTAT et al to further include KPI application as taught by PEOPLESOFT for at least one of the many benefits cited above, i.e. KPI to help managers develop and execute EPM's four business solutions: Strategic & Financial management, Workforce Analytics and Industry Process management, and Customer Relationship management. As for the limitation of the monitoring information includes business event message, this limitation appears to be included in the above teachings since business event message reads over business information or business data. Therefore, PEOPLESOFT fairly teaches the claimed invention except for the usage of a contextual visualization interface in the “displaying” step.

COGNOS is cited to teach allows organizations to deliver business intelligence **applications** across the enterprise based on a shared dimensional framework. From the building of subject area data marts, to the automatic design and deployment of business models and reports, DecisionStream is the foundation for end-to-end BI. Its integration with PowerPlay, Impromptu, and Cognos Visualizer allows users to identify and analyze trends and **key performance indicators** and drill through to relational data reports for transaction-level details. The result is that all users have access to consistent data for more informed and coordinated analysis, reporting, and decision-making across and outside the enterprise. As for the limitation of the monitoring information includes business event message, this limitation appears to be included in the above teachings since business event message reads over business information or business data. Therefore, COGNOS fairly teaches the claimed invention except for the usage of a contextual visualization interface in the “displaying” step.

In a network management system, BATTAT et al is cited to teach a method for monitoring an object by reporting /displaying information with respect to change of information, message and events related to the object, comprising the steps receiving business event message information indicating an occurrence of the business event and how these events messages affect the monitoring object and wherein the result of change of the events are displayed via a contextual visualization (real world) interface to obtain the benefits of allowing the user to be intuitive as if physically present in a real world environment or high degree of user defined customization or business process overview as indicated as shown on col. 4, line 47 to col. 5, line 51. See also Fig. 3,

steps (301), (302), (303), (304), (305), (306), (307), (308), (309), (310), and (311), Fig. 1, Fig. 10j, col. 8, lines 5-67, col. 15, lines 22-40).

It would have been obvious to modify the displaying interface in the monitoring a business performance of ORACLE or PEOPLESOFT or COGNOS by using a contextual visualization interface as taught by BATTAT et al to obtain the benefits of allowing the user to be intuitive as if physically present in a real world environment or high degree of user defined customization or business process overview as indicated as shown on col. 4, line 47 to col. 5, line 51. See also Fig. 3, steps (301), (302), (303), (304), (305), (306), (307), (308), (309), (310), and (311), Fig. 1, Fig. 10j, col. 8, lines 5-67, col. 15, lines 22-40). Note that BATTAT et al also teaches step (c ) of receiving business information including business event message and how this event message affects the status or the result of the monitoring object and therefore it would have also been obvious to modify the teachings of PEOPLESOFT or COGNOS or ORACLE to include business event message as taught by BATTAT et al as mere including other relevant business information.

As for dep. claims 2-6 (part of 1 above), which deal with the type of business event message or features of the messages with respect to events or data or information, these are non-essential to the scope of the claimed invention and are fairly taught in Fig. 3A and 3 element (304) of BATTAT et al.

As for dep. claim 7 (part of 1 above), which deal with the type of PKI, i.e. prediction (trend or forecast), this is fairly taught in COGNOS or PEOPLESOFT or ORACLE, as described above.



As for independent system claim 9 or 10, which is merely the system/apparatus to carry out the method of claim 1 above, it's rejected over the system/apparatus of BATTAT et al (Figs. 1, 2 and 3) and COGNOS or PEOPLESOFT or ORACLE. Alternatively, the set up of a computer system to carry out a respective computed-method claim would have been obvious to a skilled artisan.

***Response to Arguments***

7. Applicant's arguments, see Response, filed 10/2/07, with respect to the rejection(s) of claim(s) 1-7, 9-10 under the 103 rejections have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the teachings cited above.

No claims are allowed.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct@uspto.gov>. Should you have any questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

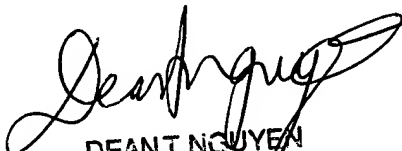
In receiving an Office Action, it becomes apparent that certain documents are missing, e. g. copies of references, Forms PTO 1449, PTO-892, etc., requests for copies should be directed to Tech Center 3600 Customer Service at (571) 272-3600, or e-mail [CustomerService3600@uspto.gov](mailto:CustomerService3600@uspto.gov).

Any inquiry concerning the merits of the examination of the application should be directed to Dean Tan Nguyen at telephone number (571) 272-6806. My work schedule is normally Monday through Friday from 6:30 am - 4:00 pm. I am scheduled to be off every other Friday.

Should I be unavailable during my normal working hours, my supervisor John Weiss can be reached at (571) 272-6812.

The main FAX phone numbers for formal communications concerning this application are (571) 273-8300. My personal Fax is (571) 273-6806. Informal communications may be made, following a telephone call to the examiner, by an informal FAX number to be given.

dtn  
January 6, 2008

  
DEAN T. NGUYEN  
PRIMARY EXAMINER